United Nations CED/C/13/3

International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report on requests for urgent action submitted under article 30 of the Convention*

A. Introduction

1. Pursuant to rules 57 and 58 of the Committee's rules of procedure (CED/C/1), any requests for urgent action that are submitted under article 30 of the Convention are to be brought to the attention of the Committee for its consideration. The full text of any such request may be made available in the language of submission to any member of the Committee upon request by that member. The present report summarizes the main issues relating to urgent action requests received by the Committee under article 30 of the Convention and the decisions taken in that regard since its twelfth session.

B. Requests for urgent action received since the twelfth session of the Committee

2. In its report on requests for urgent action adopted at its twelfth session, the Committee set out the decisions taken on the 359 requests for urgent action registered up to 18 January 2017. From that date until 12 July 2017, the Committee has received 29 new requests for urgent action, of which 27 have been registered. Those 27 requests relate to events that occurred in Argentina, Armenia, Colombia, Iraq, Mauritania, Mexico, Morocco and Sri Lanka. The present report is accompanied by a list of the urgent actions that have been registered.

3. Four requests were not registered for the following reasons: three related to disappearances that occurred in a State that is not a party to the Convention and one of the alleged victims was located a few hours after the request for urgent action had been sent by the authors and before that request could be registered (Morocco).

4. At the time of writing, the Committee had thus registered a total of 385 requests for urgent action. These requests were distributed by year and country as follows:

* Adopted by the Committee at its thirteenth session (4-15 September 2017).

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Table 1
Urgent action registered, by year and by country

Year	*Argentina*	*Armenia*	*Brazil*	*Cambodia*	*Colombia*	*Iraq*	*Mauritania*	*Mexico*	*Morocco*	*Sri Lanka*	*Total*
2012	-	-	-	-	-	-	-	5	-	-	5
2013	-	-	-	-	1	-	-	5[a]	-	-	6
2014	-	-	1	1	1	5	-	43	-	-	51
2015	-	-	-	-	3	43	-	165	-	-	211
2016	-	-	-	-	4	22	-	58	1	-	85
2017[b]	2	1	-	-	3	46	1	12	1	1	27
Total	**2**	**1**	**1**	**1**	**12**	**76**	**1**	**288**	**2**	**1**	**385**

[a] Urgent action No. 9/2013 refers to two persons and is therefore counted as two urgent actions.

[b] As of 8 September 2017.

C. The process after registration of urgent action requests: developments observed since the twelfth session (up to 12 July 2017)

1. Interaction with States parties

5. The Committee maintains contact with States parties through their permanent missions, primarily by means of notes verbales. With a view to ensuring that the Committee's recommendations in the context of urgent action requests produce a greater impact, the Committee continues to be convinced of the need for more direct contact with the authorities responsible for searching for disappeared persons on behalf of whom urgent actions have been registered and for investigating their disappearance. However, to date, it has not been possible to identify channels that might facilitate such contacts.

6. During the current period, there has been a reduction in the frequency of responses from States parties concerning which requests for urgent action have been registered. Thus, no response had been received, as of the date on which this report was adopted, from States parties regarding 11 of the 27 urgent actions registered in 2017. Reminders were sent to the States parties in question.

7. The Committee takes note in this context of the request from Colombia for more time to respond to requests for urgent action and to follow-up letters. Until now, a response to an initial request had been required within two weeks, and three two-week extensions were granted before a final reminder stating that, if no reply was received, the Committee could decide to mention the State party's lack of cooperation in its report on the session and its report to the General Assembly. Given the difficulties that States parties may encounter in gathering the necessary information, and with a view to working in cooperation with States parties, the Committee has decided to accede to the request made by Colombia to set new time limits for responses (see section E below).

8. In terms of the content of States parties' replies, a number of trends highlighted in the report adopted at the Committee's eleventh session were again in evidence (see CED/C/11/3 and CED/C/12/3). The Committee notes that the replies received from States parties indicate that the search and investigation efforts launched in cases brought to their attention soon come to a standstill.

9. The following trends were observed in the case of Mexico:

(a) The practice of failing to initiate investigations within 72 hours of a disappearance continues, even in cases where protocols at the state or federal level underscore the importance of initiating searches "forthwith" when a disappearance is reported;

(b) In all the urgent action cases, the State party's observations and the authors' comments reflect sporadic, isolated actions which, for the most part, are more a matter of

form than of substance and do not seem to be part of, or to be directed by, a previously defined search and investigation strategy;

(c) The searches are almost invariably begun by sending official requests for information to hospitals and detention centres. Most of these letters remain unanswered. The Committee has expressed concern that, in such cases, the Public Prosecutor's Office does not appear to make full use of its authority to employ enforcement measures in order to obtain the requisite information;

(d) In the great majority of cases, no action is taken after the official letters are dispatched, and in situ investigations are almost never conducted. The authors frequently inform the Committee that the investigating authorities are directly or indirectly implicated in the case or are afraid to go to the locations where they might be able to collect evidence;

(e) According to the available information, investigations by the authorities are frequently not started unless relatives, close contacts or representatives of the disappeared persons take the initiative. If relatives, close contacts or representatives are unable to identify leads for the investigators or are unable to persuade the authorities to take action, the cases generally remain deadlocked;

(f) The trend towards the fragmentation of investigations among state institutions, and between state and federal institutions, continues, as does the lack of inter-agency coordination and of a joint strategy. Given these circumstances, great difficulties have reportedly been encountered in incorporating all the evidence into a single investigation. Fragmentation and lack of coordination are conducive to excessive delays in the investigations;

(g) The authors of urgent action requests continue to highlight the difficulties faced by relatives, close contacts and representatives of disappeared persons in obtaining access to the case files and other information and in participating in the search and investigation;

(h) Support for relatives of disappeared persons is very limited and fails to meet their needs. In 75 per cent of the registered actions related to events in Mexico, relatives have drawn attention to the major difficulties that they have encountered following a disappearance. It was reported in several cases that the "allowances" distributed by the Executive Commission for Victim Support (CEAV) do not meet basic needs, that the administrative procedures involved in obtaining access to health services and the necessary educational support take a great deal of time and that access to such services and support is often obtained too late to meet family needs. This situation is compounded by the factors that prevent relatives and close contacts from participating fully in the search for disappeared persons.

10. With regard to the urgent actions registered in connection with events in Iraq, the Committee recalls that, as noted in the report adopted at its twelfth session, it had sent a fourth reminder concerning 23 registered urgent actions. During the twelfth session, the Committee held a bilateral meeting with the Permanent Mission of Iraq to give the State party an opportunity to explain why it had not been in a position to respond to the Committee's letters. Once the Committee had clarified certain aspects of the urgent action procedure, the State party undertook to send information in the weeks following the session on the urgent actions in question, and it did so. Nevertheless, the Committee underscores its concerns on the following grounds:

11. In 25 of the registered urgent actions, the State party sent a letter requesting the Committee to provide additional information on the following points:

- Full name (all four names) and title
- Date and place of birth
- Mother's name
- Place and date of disappearance
- Profession, activity/occupation and place of work

- Family address
- Address of the missing person
- Academic training/education
- Criminal record, if any
- Relationship with the author of the request for urgent action
- Whether the disappearance has been reported to the police
- Whether the disappearance has been reported to the courts
- Full name of the author of the request for urgent action
- Date of the request and signature of the author of the request
- Fingerprints of the author of the request
- Documents to be delivered: identity card, certificate of Iraqi nationality, residence permit, ration card (a card that must be presented to obtain access to food and medicines), passport and a copy of the complaint submitted to the national authorities.

12. The Committee sent a letter to the State party with respect to these cases in which it stated that it appreciated the State party's intention to obtain additional information "to enable the competent authorities to investigate the circumstances surrounding the alleged disappearance". However, the Committee reminded the State party that the requested information regarding the identity of the disappeared person and the address, date, place and circumstances of the disappearance had already been provided in the urgent action registration note. The Committee also reminded the State party that, on all previous occasions when the State party had requested additional information on the identity of a disappeared person, such information had been provided. The Committee expressed concern that the provision of the requested information had not given rise to the receipt of any subsequent information on the State party's efforts to search for and locate the missing person and to investigate the alleged enforced disappearance.

13. With regard to the State party's request that the Committee provide information on the authors of the request for urgent action, the Committee recalled that, for security reasons, the confidentiality of the identity of the authors of all requests submitted under article 30 of the Convention is maintained throughout the proceedings. Lastly, the Committee emphasized that urgent action requests arise under emergency circumstances and that a speedy response by the State party authorities is necessary in order to locate the missing persons. In this context, and in accordance with article 30 of the Convention, the State party cannot expect the Committee to adopt a special procedure to facilitate the launching of an investigation. Rather, the State party is required, under the Convention, to take the necessary steps in good faith to search for and locate missing persons and to investigate their disappearance by drawing on the basic information that has been provided on the identity of the missing persons and on the date, place and circumstances of their disappearance. In closing, the Committee expressed concern that the fate and whereabouts of missing persons had not been clarified and reiterated its previous recommendations regarding the request for urgent action in question.

14. Regarding another series of urgent action requests, Iraq asked the Committee to invite the relatives of the disappeared persons to visit the Human Rights Department at the Office of the Inspector General in the Ministry of the Interior to "file a formal request for the search and to give a statement as a means of furthering the ongoing investigations". According to information received by the Committee, the relatives of the missing persons in question appeared before the authorities mentioned by the State party with a copy of the State's letter but were not received by the relevant authorities and were instead referred to other institutions, such as the forensic department, to look for "their relative, who was probably dead". The Committee is concerned about these reactions on the part of the State party, which delay the search and seem to be based on an unsubstantiated hypothesis as to the alleged death of missing persons which may impede an effective search for living persons.

15. In respect of three of the urgent action requests, the State party said that the request could not be addressed because the missing person's relatives had not reported the disappearance to the proper national authorities. In its letter, the Committee reminded the State party that, in accordance with article 30 (2) (c) of the Convention, the author of a request for urgent action should already have duly presented it to the competent bodies of the State party concerned, "where such a possibility exists". The Committee also reminded the State party that, in accordance with the Committee's jurisprudence, if the available information indicates that the relatives would place themselves at risk if they reported the disappearance to the competent domestic authorities, then there is no real possibility of doing so. The request for urgent action triggers the responsibility of the State party to "undertake an investigation, even if there has been no formal complaint", pursuant to article 12 (2) of the Convention.

16. With regard to requests for urgent action directed to other States parties, the Committee considers that the number of registered requests is too small to enable it to arrive at any conclusions concerning the existence of repeated trends. However, the following information may be highlighted regarding registered urgent action requests:

(a) Argentina: In the two cases in which urgent action requests were registered, the State party responded by denying allegations of enforced disappearance despite a number of statements and pieces of evidence pointing to the direct involvement of police officers or members of the Gendarmeria. The authors have reiterated their allegations. The Committee will send follow-up notes as soon as possible concerning these two urgent action requests;

(b) Armenia: The State party sent its reply and provided information on the investigations that are under way. This information was shared with the authors of the request for their comments;

(c) Brazil: The information that has been provided has been very general. The State party highlights the complications encountered in conducting the investigation. The urgent action procedure has proceeded at a very slow pace because of the difficulties involved in obtaining comments from the authors;

(d) Cambodia: The State party has maintained its position that the person concerning whom the alleged forced disappearance was registered has not disappeared, notwithstanding various statements and pieces of evidence that suggest the possibility of such a disappearance. The authorities have also concluded that it is unnecessary to proceed with the investigation in question. The Committee awaits the authors' observations in order to take action;

(e) Colombia: The State party is maintaining an ongoing dialogue with the Committee and has responded to requests for urgent action and follow-up notes. In many cases, the information it has provided suggests that the investigations and search procedures have made little progress. The authors report that the Committee's letters are frequently followed by concrete action, although such action does not always form part of a clear-cut search and investigation strategy. In one case, the author of the request has expressed concern regarding the failure of the investigating authorities to take action. In fact, the State party's responses are very general and indicate that investigative action that could be deemed fundamental, in light of the available information, has not been taken;

(f) Morocco: Regarding the two requests for urgent action that have been registered, the State party considers that the relevant facts do not correspond to enforced disappearances. The first request was discontinued when the missing person was located in May 2016 (CED/C/12). In the case of the second request for urgent action, the State party informed the Committee of the place of detention of the alleged victim. The information was shared with the authors, but their comments have not yet been received. The Committee will have to decide on what follow-up measures it should take once the authors' comments are received;

(g) Sri Lanka: The State party has not replied to the registered request for urgent action. Reminders have been sent.

2. Interaction with authors

17. The secretariat is in frequent contact with the authors of urgent action requests, mainly by means of letters sent on behalf of the Committee, but also more directly, by email and telephone. On the basis of the Committee's contact with authors, the following trends have been observed.

18. The authors continue to highlight the importance of the Committee's support as an intermediary, following several unsuccessful attempts to secure the assistance of the national authorities. In some cases, the authors announced that, following the Committee's intervention, they had obtained the outcome that they had sought in connection with the implementation by the national authorities of the Committee's recommendations concerning the establishment of bodies tasked with coordinating search and investigation procedures.

19. In other cases, however, the authors indicate that, following the notes sent by the Committee, the State authorities take piecemeal action that is devoid of continuity. While they refer, for instance, to the receipt of material support, such as the distribution of foodstuffs or help in ensuring that a family member has access to medical treatment, they also indicate that such support is very speedily suspended once the State has submitted its report to the Committee in which it refers to the assistance provided.

20. In many cases, very soon after the registration of requests for urgent action, the authors express frustration regarding the lack of progress in the State's fulfilment of its search and investigative duties. They note with concern the failure of the authorities to undertake basic investigative steps to search for and locate missing persons, even when reliable information was available that could be used to move forward with the search and investigation.

21. In the older cases, the authors state that national authorities are taking less and less action to search for and locate the disappeared person(s) and that they confine their interventions to formal action or to the repetition of previous investigations. In other cases, the authors highlight the failure of national authorities to take action in order, for example, to ensure that all witnesses are duly interviewed as soon as possible to facilitate the search for the missing person and the investigation of his or her disappearance.

22. In the case of a few of the urgent action requests, the authors have not sent their comments on the State party's observations. This limits the Committee's ability to move forward with these urgent action procedures. However, in accordance with article 30 (4) of the Convention, these urgent action cases remain open.

23. In accordance with the decision taken by the plenary at the Committee's twelfth session, the Committee has applied the following rule:

(a) Three reminders are sent to the author;

(b) If authors fail to reply within **three months** of receipt of the third reminder, the secretariat tries to locate them by other means and enquires about the reasons for their failure to respond to the Committee;

(c) If authors indicate that they are not in a position to respond in writing but have information that they wish to share with the Committee, the secretariat seeks to obtain such information orally (for example by telephone) and sends a follow-up note to the State party based on the information obtained;

(d) If, **six months** after the third reminder, the author cannot be located or has no information to provide, the Committee sends a note to the State party based on the available information in which it sets a new deadline for the State party to send updated information on the case.

24. The Committee is also concerned by allegations that authors of requests for urgent action have been subjected to threats, pressure and reprisals, particularly in connection with events that occurred in Mexico. In these urgent action cases, the authors asked the Committee to intervene and to request interim protective measures, which were granted. In cases in which the authors of the requests allege that state authorities were involved in the

disappearance, the Committee has requested that the protective measures be implemented by the federal authorities. In all cases, it also underscores the importance of ensuring that the interim protective measures are implemented in coordination with the beneficiaries and their representatives in order to secure their full trust in the persons responsible for their protection and to ensure that those measures fully meet their needs in the context of the search for the missing persons and the investigation of their disappearance. With this end in view, the Committee requests the State party to convene regular coordination meetings between the authorities tasked with implementing the interim measures, the beneficiaries and their representatives.

D. Urgent actions discontinued, closed, or kept open for the protection of persons for whom interim measures have been granted

25. In accordance with the criteria adopted in plenary by the Committee at its eighth session:

(a) An urgent action is discontinued when the disappeared person has been located but is still detained, since that person is at particularly high risk of being disappeared and placed outside the protection of the law once again;

(b) An urgent action is closed when the missing person has been found at liberty or located and released, or has been found dead, provided that the relatives and/or authors do not contest these facts;

(c) An urgent action is kept open when the disappeared person has been located but the persons for whom interim measures have been granted are still under threat. In such cases, the intervention of the Committee is limited to following up on the interim measures.

26. As of the date of this report, the Committee has closed a total of 28 urgent action cases: in 9 of these cases, the disappeared person was located and released alive; in the other 19 cases, it was determined that the disappeared persons were dead.

27. In addition, the Committee has discontinued two urgent action requests because the disappeared person was located but remains in detention.

28. In two urgent action cases, it has been determined that the disappeared person is dead, but the urgent action remains open because the persons who were granted interim measures are still under threat.

E. Plenary decisions

29. In response to the request from Colombia that the Committee extend the time limits for responding to requests for urgent action and follow-up notes, the Committee decided to set the following new time limits:

(a) For the response to the initial request: three weeks, with three reminders, each setting a time limit of three weeks, prior to the final reminder;

(b) For follow-up notes: one month, with three reminders, each setting a time limit of three weeks, prior to the final reminder.

30. In view of the trends observed during the periods covered by this report and the Committee's previous reports on urgent action requests and in the light of procedural developments, the Committee has decided to prepare a compilation of its rules for consideration and adoption by the plenary. The draft compilation may be submitted at the next session in the context of the submission of the report on urgent actions.

31. The Committee has decided to take concrete action, with the support of the secretariat, to disseminate more specific information on the urgent action procedure, primarily to civil society organizations and State party officials. The Committee has thus decided to prepare clearly worded information materials for distribution.

32. With the same end in view, the Committee wishes to work with national authorities to increase information exchanges and training opportunities dealing with the urgent action procedure and objectives, in coordination with the field offices of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the treaty body capacity-building programme, in order to raise awareness of the scope and objectives of urgent actions.

33. The Committee notes that the number of registered urgent action requests continues to rise and that, given this situation, a pressing need exists for an increase in the number of OHCHR secretariat staff members involved in processing urgent actions.

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Committee on Enforced Disappearances

Report on follow-up to the concluding observations of the Committee on Enforced Disappearances*

I. Introduction

1. The present report reflects the information received by the Committee between its eleventh and thirteenth sessions in follow-up to its concluding observations on Burkina Faso (CED/C/BFA/CO/1/Add.1), Iraq (CED/C/IRQ/CO/1/Add.1), Kazakhstan (CED/C/KAZ/CO/1/Add.1), Montenegro (CED/C/MNE/CO/1/Add.1) and Tunisia (CED/C/TUN/CO/1/Add.1) and the assessments and decisions it adopted at its thirteenth session.

2. During the ninth and tenth sessions of the Committee, a constructive dialogue took place with the States and concluding observations were adopted. The assessments contained in this report only refer to the specific recommendations that were selected for the follow-up procedure and in relation to which the States parties were requested to submit information within one year after the adoption of the concluding observations. The present report does not constitute an assessment of the implementation of all the concluding observations made to the State party nor a comparison between States parties.

3. To carry out its assessment of the information provided by the States parties concerned, the Committee uses the criteria described below:

Assessment of replies

A. Reply/action satisfactory

Reply largely satisfactory

B. Reply/action partially satisfactory

Substantive action taken, but additional information required

Initial action taken, but additional information and measures required

C. Reply/action not satisfactory

Reply received but action taken does not implement the recommendation

Reply received but not relevant to the recommendations

No reply received concerning a specific matter in the recommendation

* Adopted by the Committee at its thirteenth session (4-15 September 2017).

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Assessment of replies

D. No cooperation with the Committee

No reply received after reminder(s)

E. The measures taken are contrary to the Committee's recommendations

The reply reveals that the measures taken are contrary to the Committee's recommendations

II. Assessment of follow-up information

A. Iraq

Ninth session (September 2015)

Iraq

Concluding observations:	CED/C/IRQ/CO/1, adopted 16 September 2015
Recommendations to be followed up:	Paragraphs 14, 29 and 34
Reply:	CED/C/IRQ/CO/1/Add.1, due 18 September 2016; received on 15 February 2017
Information from non-governmental organizations:	Alkarama received on 24 July 2017

Paragraph 14: The Committee recommends that the State party adopts the legislative measures necessary to ensure that, as soon as possible:

(a) **Enforced disappearance is incorporated into domestic law as an autonomous offence, in accordance with the definition contained in article 2 of the Convention, and that the offence carries appropriate penalties which take account of its extreme seriousness;**

(b) **Enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention and regardless of the date of perpetration.**

State party's reply

The reply of the State party can be consulted in CED/C/IRQ/CO/1/Add.1.

Committee's evaluation

[C]: The Committee takes note of the information provided by the State party and the State party's willingness to harmonize its criminal legislation with the definition in article 2 of the Convention. However, the Committee notes that it has not received sufficient information regarding the status of the bill mentioned in the State party's response intended to incorporate enforced disappearance as an autonomous crime in line with article 2 of the Convention. The Committee would like to emphasize that criminalizing enforced disappearance as an autonomous offence can serve as an important safeguard against impunity and as a preventive measure to ensure the non-occurrence of this crime. Therefore, the lack of an autonomous offence for this crime may prevent the State party from accomplishing its obligations to combat impunity for the crime, guarantee the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person and make the offence of enforced disappearance punishable by appropriate penalties in line with article 7 of the Convention. The Committee further observes that no information has been provided regarding the content of the bill or the penalties provided for the crime of enforced disappearance. The

Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 43 of its concluding observations (CED/C/IRQ/CO/1), to provide information on the measures taken to implement it. The Committee further observes that no information has been provided by the State party regarding its recommendation to ensure that enforced disappearance as a crime against humanity is criminalized in accordance with article 5 of the Convention and regardless of the date of perpetration. Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 43 of its concluding observations, to provide information on the measures taken to implement it.

Paragraph 29: The State party should adopt all the measures necessary to ensure that no person is held in secret detention, including by guaranteeing that all persons deprived of liberty are afforded, de jure and de facto, since the outset of their deprivation of liberty all the fundamental legal safeguards provided under article 17 of the Convention and other human rights treaties to which Iraq is a party. In particular, the State party should guarantee that:

(a) **Deprivations of liberty are carried out only by officials authorized by law to arrest and detain persons and in strict compliance with the law;**

(b) **Persons deprived of their liberty are held solely in officially recognized and supervised places of deprivation of liberty;**

(c) **All persons deprived of their liberty can communicate without delay and regularly with their families, counsel or any other person of their choosing and, in the case of foreigners, with their consular authorities;**

(d) **All deprivations of liberty, without exception, are entered in uniform registers and/or records which include, as a minimum, the information required under article 17 (3) of the Convention;**

(e) **Registers and/or records of persons deprived of liberty are filled out and updated promptly and accurately and are subject to periodic checks and, in the event of irregularities, the officers responsible are adequately sanctioned;**

(f) **Any person with a legitimate interest can have prompt and easy access anywhere in the territory to at least the information listed in article 18 (1) of the Convention.**

State party's reply

The reply of the State party can be consulted in CED/C/IRQ/CO/1/Add.1.

Committee's evaluation

[C]: While taking note of the information provided by the State party and welcoming the submission of a new bill on prison management, the Committee observes that it has not been provided with sufficient information about any measures taken by the State party, since the adoption of its concluding observations (CED/C/IRQ/CO/1), on:

(a) Ensuring that no person is held in secret detention, including by guaranteeing that all persons deprived of liberty are afforded, de jure and de facto, since the outset of their deprivation of liberty all the fundamental legal safeguards provided under article 17. In particular, the Committee notes that the State has not provided any information on the content of the new bill on prison management and how its regulations and provisions address the recommendation of the Committee;

(b) Ensuring that any deprivation of liberty is only carried out by officials authorized by law to arrest and detain persons and in strict compliance with the law and that persons deprived of liberty are only held in officially recognized and supervised places of deprivation of liberty;

(c) Ensuring that all persons deprived of liberty can communicate without delay

and regularly with any person of their choosing and, in the case of foreigners, with their consular authorities;

(d) Ensuring that all deprivations of liberty, without exception, are entered in uniform registers and/or records which include, as a minimum, the information required under article 17 (3) of the Convention, that these registers and/or records are filled out and updated promptly and accurately and that they are subject to periodic checks and, in the event of irregularities, the officers responsible are adequately sanctioned;

(e) Ensuring that any person with a legitimate interest can promptly and easily access anywhere in the territory at least the information listed in article 18 (1) of the Convention.

Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 43 of its concluding observations, to provide:

(a) Additional information on the status of approval of the bill, its content and how its regulations and provisions address the Committee's recommendation;

(b) Information on any action taken to ensure that deprivations of liberty are carried out only by officials authorized by law to arrest and detain persons and in strict compliance with the law;

(c) Information on actions taken to ensure that persons deprived of liberty are held solely in officially recognized and supervised places of deprivation of liberty and that they can communicate without delay and regularly with their families, counsel or any other person of their choosing and, in the case of foreigners, with their consular authorities;

(d) Information on any measures taken to ensure that all deprivations of liberty, without exception, are entered in uniform registers and/or records which include, as a minimum, the information required under article 17 (3) of the Convention, and that these registers and/or records are filled out and updated promptly and accurately, that they are subject to periodic checks and, in the event of irregularities, the officers responsible are adequately sanctioned;

(e) Information on any action taken to ensure that any person with a legitimate interest can have prompt and easy access anywhere in the territory to at least the information listed in article 18 (1) of the Convention.

Paragraph 34: The State party should redouble its efforts in order to ensure that all persons who were forcibly disappeared and whose fate is not yet known are searched for and located without delay and that, in the event of death, their remains are identified, respected and returned. In this sense, it should also guarantee the effective coordination and cooperation between the authorities responsible for searching for disappeared persons and identifying their remains in the event of death, and ensure that they have the necessary financial, technical and human resources to enable them to carry out their work promptly and effectively. In addition, the State party should adopt the measures necessary to ensure the swift entry into force of the amendment to the Protection of Mass Graves Act (Act No. 13 of 2015), as well as the effective implementation of the legislative framework concerning mass graves. The Committee recalls that, in the light of article 24 (6) of the Convention, the State party should ensure that investigations continue until the fate of the disappeared person has been clarified.

State party's reply

The reply of the State party can be consulted in CED/C/IRQ/CO/1/Add.1.

Committee's evaluation

[C]: While taking note of the information provided by the State party, the Committee

[illegible]

observes that it has not received sufficient information regarding any actions taken to implement its recommendation since the adoption of its concluding observations (CED/C/IRQ/CO/1). In particular, the Committee notes that the State has not provided sufficient information on the roles of the authorities mentioned, namely the Supreme Judicial Council, the Human Rights Division, the Presidency of the Public Prosecution Service, the court of enquiry, the Human Rights Department in the Ministry of Defence, the military and the security services, and the Martyrs Foundation, in the search for and location of all persons who have been forcibly disappeared and whose fate is not yet known and that, in the event of death, in the identification and return of their remains. In that respect, the Committee further notes that it has not received information on any actions taken by the State to ensure the effective coordination and cooperation between those and other authorities that may be responsible or involved in searching for disappeared persons and identifying their remains in the event of death, and ensure that they have the necessary financial, technical and human resources to enable them to carry out their work promptly and effectively. Finally, the Committee observes that the State has not provided any information on the status of the amendment to the Protection of Mass Graves Act (Act No. 13 of 2015), whether it has entered into force, or on any measures taken to ensure the effective implementation of the legislative framework concerning mass graves. Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 43 of its concluding observations, to:

(a) Provide information on the efforts made by the State party and any measures taken to ensure that all enforced disappeared persons whose fate is not yet known are searched for and located without delay and that, in the event of death, their remains are identified, respected and returned;

(b) Provide additional information about the authorities mentioned in the State party's response, and any others that may exist, that are involved in the search for disappeared persons and the identification of their remains in the event of death, provide clarification about their roles and provide information on how they cooperate and coordinate their efforts. The Committee would also like to receive information on any measures taken by the State party to ensure that those authorities have the necessary financial, technical and human resources to enable them to carry out their work promptly and effectively;

(c) Provide confirmation on whether the amendment to the Protection of Mass Graves Act (Act No. 13 of 2015), to make it also applicable to mass graves dating from the period after 2003, has entered into force;

(d) Provide information on any measures taken to ensure the effective implementation of the legislative framework concerning mass graves.

Action to be taken

A letter should be sent to the State party communicating the Committee's evaluation.

Follow-up information on the implementation of all the recommendations to be submitted by: 18 September 2018

B. Montenegro

Ninth session (September 2015)

[illegible]

Concluding observations: CED/C/MNE/CO/1, adopted 16 September 2015

Recommendations to be followed up: Paragraphs 9, 25 and 29

Montenegro

Reply: CED/C/MNE/CO/1/Add.1, due 18 September 2016; received 8 December 2016

Paragraph 9: The Committee recommends that the State party adopt the measures necessary to make enforced disappearance an autonomous offence in line with the definition contained in article 2 of the Convention. It further recommends that the offence be punishable by appropriate penalties which take into account its extreme seriousness, and that a system of superior responsibility that is in accordance with article 6 (1) (b) of the Convention be applicable to this offence.

State party's reply

The reply of the State party can be consulted in CED/C/MNE/CO/1/Add.1.

Committee's evaluation

[C]: The Committee takes note of the information provided by the State party and of its statement that enforced disappearance is regulated and sanctioned in Montenegro, and there is no need to criminalize enforced disappearance as an autonomous offence. However, the Committee is concerned that, even though the Montenegrin legislation contains elements related to enforced disappearance, they are not sufficient to encompass all the elements and modalities of an enforced disappearance, as defined in article 2 of the Convention. The Committee would like to emphasize that criminalizing enforced disappearance as an autonomous offence can serve as an important safeguard against impunity and as a preventive measure to ensure the non-occurrence of this crime. Therefore, the lack of an autonomous offence for this crime may prevent the State party from accomplishing its obligations to combat impunity for the crime, guarantee the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and to make the offence of enforced disappearance punishable by appropriate penalties, in line with article 7 of the Convention. In addition, the Committee observes that no information has been provided regarding any actions taken to ensure that appropriate penalties are introduced for the seriousness of this crime. Finally, the Committee has not received information on any measures adopted to ensure that a system of superior responsibility is applicable to this offence in accordance with article 6 (1) (b) of the Convention. In view of the above, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 40 of its concluding observations (CED/C/MNE/CO/1), to report on any measures and action taken to implement the recommendation.

Paragraph 25: The Committee recommends that the State party take the measures necessary to ensure that, in practice, all persons deprived of their liberty can communicate without delay with their families or any person of their choosing and have access to an independent lawyer from the very outset of the deprivation of liberty. It also recommends incorporating the right to challenge the legality of a detention into the list of rights that cannot be limited during a state of war or emergency. The State party should also ensure that the information on all persons deprived of their liberty is effectively entered in registers and/or records in accordance with standard protocols and that the information contained therein includes, as a minimum, that required under article 17 (3) of the Convention.

State party's reply

The reply of the State party can be consulted in CED/C/MNE/CO/1/Add.1.

Committee's evaluation

[C]: The Committee, while welcoming the information provided by the State party, considers that it does not have sufficient information regarding the actions taken to implement its recommendation since the adoption of its concluding observations (CED/C/MNE/CO/1). The Committee notes that the State party has not provided

information on any measures taken to ensure that, in practice, all persons deprived of their liberty can communicate without delay with their families or any person of their choosing and have access to an independent lawyer from the very outset of the deprivation of liberty. Furthermore, the Committee observes that it has not received any information on any action taken by the State party to incorporate the right to challenge the legality of a detention into the list of rights that cannot be limited during a state of war or emergency. Finally, while taking note of the law on the enforcement of sentences of imprisonment, fines and security measures and the rulebook mentioned in the State party's replies, the Committee notes that it has not received sufficient information with regard to how these and any other applicable legislation and measures ensure that the information on all persons deprived of their liberty is effectively entered in registers and/or records in accordance with standard protocols and that the information contained therein includes, as a minimum, that required under article 17 (3) of the Convention. Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 40 of its concluding observations, to provide:

(a) Information that allows the Committee to confirm that, in practice, all persons deprived of their liberty within the Montenegrin jurisdiction do have access to an independent lawyer, not only during the interrogation process but from the very outset of the deprivation of liberty;

(b) Information on any measures undertaken to incorporate the right to challenge the legality of a detention into the list of rights that cannot be limited during a state of war or emergency;

(c) Additional information on the informational register of detainees and arrested persons, including whether it contains all the information required under article 17 (3) of the Convention. In particular, the State party shall refer to the inclusion of the provisions of article 17 (3) (b) (d) (e) (f) (g) and (h) of the Convention.

Paragraph 29: The State party should consider introducing the legislative amendments necessary to establish a definition of victim that conforms to that contained in article 24 (1) of the Convention in order to ensure the full enjoyment by any individual who has suffered harm as the direct result of an enforced disappearance of the rights set forth in the Convention, in particular the rights to the truth and reparation enshrined in its article 24 (2), 24 (4) and 24 (5).

State party's reply

The reply of the State party can be consulted in CED/C/MNE/CO/1/Add.1.

Committee's evaluation

[C]: While noting the legal provisions relating to the rights of victims mentioned by the State party, the Committee observes that it has not been provided with sufficient information about any action taken to implement its recommendation since the adoption of its concluding observations (CED/C/MNE/CO/1). The Committee further notes that no information has been provided by the State party that may allow the Committee to confirm if a victim of enforced disappearance is obliged to initiate a criminal procedure to be considered as such. The Committee is also concerned that no provision is made in the State party's legislation for a comprehensive system of reparation that fully meets the requirements of article 24 (2), (4) and (5) of the Convention and is applicable to all cases of enforced disappearance. In particular, the State party did not refer to other forms of reparation such as restitution, rehabilitation, satisfaction and guarantees of non-repetition, which are essential in cases of enforced disappearance. Finally, the Committee is concerned that the right of victims to know the truth regarding the fate of the disappeared person is not explicitly guaranteed. In view of the above, the Committee recalls paragraph 29 of its concluding observations and reiterates its recommendation. It requests the State party, when submitting information in accordance with paragraph 40 of its concluding observations, to provide information on the measures taken to implement the

Montenegro

recommendation.

Action to be taken

A letter should be sent to the State party communicating the Committee's evaluation.

Follow-up information on the implementation of all the recommendations to be submitted by: 18 September 2021

C. Burkina Faso

Tenth session (March 2016)

Burkina Faso

Concluding observations:	CED/C/BFA/CO/1, adopted 16 March 2016
Recommendations to be followed up:	Paragraphs 10, 14 and 32
Reply:	CED/C/BFA/CO/1/Add.1, due 18 March 2017; received 23 March 2017

Paragraph 10: The Committee encourages the State party to expedite the process of amending the law establishing the National Human Rights Commission so as to make the Commission fully independent and to allocate to it sufficient human and financial resources to enable it to function properly, in full conformity with the Paris Principles. It invites the State party to include the issue of enforced disappearances explicitly in its mandate.

State party's reply

The reply of the State party can be consulted in CED/C/BFA/CO/1/Add.1.

Committee's evaluation

[B]: The Committee takes note of the information provided by the State party and welcomes the adoption of Act No. 001-2016/AN, dated 24 March 2016, on the establishment of the National Human Rights Commission and the adoption, on 9 March 2017, of a decree on the organization and functioning of the Commission. Nevertheless, the Committee notes that the Commission is not yet operational and that enforced disappearance is not explicitly mentioned in its remit. Therefore, the Committee, recalling its recommendation, requests the State party, when submitting information in accordance with paragraph 47 of its concluding observations (CED/C/BFA/CO/1), to report on the inclusion of the issue of enforced disappearance in the mandate of the Commission; to provide any further information with regard to the process of making the Commission operational; and to include information on the measures taken to ensure that the Commission is allocated sufficient human and financial resources to enable it to function properly.

Paragraph 14: The Committee recommends that the State party expedite the amendment of the Criminal Code designed to implement the Convention with a view to defining and criminalizing enforced disappearance as a separate offence, in accordance with the definition in article 2 of the Convention, punishable by appropriate penalties which take into account its extreme seriousness, while excluding the death penalty.

State party's reply

The reply of the State party can be consulted in CED/C/BFA/CO/1/Add.1.

Burkina Faso

Committee's evaluation

[C]: The Committee takes note of the information provided by the State party and welcomes its statement that the new Criminal Code will define and criminalize enforced disappearance as a separate offence. However, the Committee notes that the new Criminal Code is still under review and therefore the crime of enforced disappearance is still not defined and criminalized in line with article 2 of the Convention. The Committee would like to emphasize that criminalizing enforced disappearance as an autonomous offence can serve as an important safeguard against impunity and as a preventive measure to ensure the non-occurrence of this crime. Therefore, the lack of an autonomous offence for this crime may prevent the State party from accomplishing its obligations to combat impunity for the crime, guarantee the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and to make the offence of enforced disappearance punishable by appropriate penalties, in line with article 7 of the Convention. Therefore, recalling its recommendation, the Committee requests the State party, when submitting information in accordance with paragraph 47 of its concluding observations (CED/C/BFA/CO/1), to provide information and/or any update regarding the inclusion of a definition and the criminalization of enforced disappearance as a separate offence, which is in conformity with articles 2 and 4 of the Convention and is punishable by appropriate penalties commensurate with the extreme seriousness of the crime, while avoiding the imposition of the death penalty.

Paragraph 32: The Committee encourages the State party to take the necessary measures to provide in its criminal legislation for a specific remedy that would allow all categories of persons covered by the Convention to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful, in accordance with the provisions of article 17 (2) (f) of the Convention and other relevant international standards.

State party's reply

The reply of the State party can be consulted in CED/C/BFA/CO/1/Add.1.

Committee's evaluation

[C]: The Committee takes note with appreciation of the rights enshrined in articles 144, 146, 147 and 148 of the Criminal Code of the State party. Nonetheless, this legislation does not refer to a specific remedy that can be used to challenge the lawfulness of a detention before a competent court, and without delay, in line with article 17 (2) (f) of the Convention. Thus, the articles referred to by the State party do not establish an expeditious judicial remedy that would allow all persons covered by the Convention to challenge the lawfulness of their detention. Therefore, the Committee, recalling its recommendation, requests the State party, when submitting information in accordance with paragraph 47 of its concluding observations (CED/C/BFA/CO/1), to provide information on any measures taken to provide for a specific remedy in its criminal legislation that would allow all persons covered by the Convention to take proceedings before a competent court, so that that court may decide without delay on the lawfulness of their detention and order their release if the detention is found to be unlawful, in accordance with the provisions of article 17 (2) (f) of the Convention.

Action to be taken

A letter should be sent to the State party communicating the Committee's evaluation.

Follow-up information on the implementation of all the recommendations to be submitted by: 18 March 2022

D. Kazakhstan

Tenth session (March 2016)

Kazakhstan

Concluding observations:	CED/C/KAZ/CO/1, adopted 16 March 2016
Recommendations to be followed up:	Paragraphs 12, 20 and 22
Reply:	CED/C/KAZ/CO/1/Add.1, due 18 March 2017; received on 29 March 2017

Paragraph 12: The Committee recommends that the State party adopt the legislative measures necessary to ensure that, as soon as possible:

(a) **Enforced disappearance is incorporated into domestic law as an autonomous offence, in accordance with the definition contained in article 2 of the Convention, and that the offence carries appropriate penalties that take into account its extreme seriousness, while avoiding the imposition of the death penalty;**

(b) **Enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention.**

State party's reply

The reply of the State party can be consulted in CED/C/KAZ/CO/1/Add.1.

Committee's evaluation

[C]: While taking note of the information provided by the State party and welcoming its intention of giving the issue further consideration in its 2017-2021 plan of action, the Committee observes that the crime of enforced disappearance is still not incorporated into domestic legislation as an autonomous offence, in line with article 2 of the Convention. The Committee would like to emphasize that criminalizing enforced disappearance as an autonomous offence can serve as an important safeguard against impunity and as a preventive measure to ensure the non-occurrence of this crime. Therefore, the lack of an autonomous offence for this crime may prevent the State party from accomplishing its obligations to combat impunity for the crime, guarantee the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and make the offence of enforced disappearance punishable by appropriate penalties in line with article 7 of the Convention. The Committee further observes that no information has been provided by the State party on any measures taken to ensure that enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention. Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 37 of its concluding observations (CED/C/KAZ/CO/1), to provide:

(a) Information on the progress achieved to criminalize enforced disappearance as an autonomous offence in line with article 2 of the Convention;

(b) Information on steps taken to ensure that the offence is punishable by appropriate penalties, which take into account its extreme seriousness, excluding the imposition of the death penalty, and to establish the specific mitigating and aggravating circumstances provided for in article 7 (2) of the Convention;

(c) Information on any measures taken to ensure that enforced disappearance as a crime against humanity is criminalized in accordance with article 5 of the Convention.

Paragraph 20: The Committee recommends that the State party adopt the measures necessary to guarantee in practice, from the outset of the deprivation of liberty, that all persons have access to a lawyer, and that their relatives or any other person of their choice and, in the case of foreigners, their consular authorities, are informed of

the deprivation of liberty and of the place where the person is being held. It also recommends that the State party also guarantee in practice that any acts hindering the observance of these rights be adequately sanctioned.

State party's reply

The reply of the State party can be consulted in CED/C/KAZ/CO/1/Add.1.

Committee's evaluation

[C]: The Committee welcomes the information provided by the State party and notes the provisions of article 16 (2) of the Constitution, articles 67 and 131-135 of the Code of Criminal Procedure and article 414 (4) of the Criminal Code. However, the Committee observes that the State has not provided information on any measures taken to implement its recommendation since the adoption of its concluding observations (CED/C/KAZ/CO/1). In particular, the Committee is concerned that, according to the legislation mentioned in the State party's replies, access to a lawyer seems to be restricted to those persons facing criminal procedures and is not guaranteed from the outset of the deprivation of liberty. In addition, the Committee notes that it has not received any information regarding actions taken to ensure that any acts hindering the observance of the rights mentioned in paragraph 20 of its concluding observations are adequately sanctioned. Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 37 of its concluding observations, to provide:

(a) Information on any actions taken to ensure that, in practice, all persons have access to a lawyer, not only when a criminal procedure is opened, but from the outset of the deprivation of liberty;

(b) Information on measures taken to guarantee in practice that any acts hindering the observance of these rights are adequately sanctioned.

Paragraph 22: The Committee recommends that the State party take the steps necessary to ensure that:

(a) **All deprivations of liberty are entered in uniform registers and/or records, which include, as a minimum, the information required under article 17 (3) of the Convention;**

(b) **Registers and/or records of persons deprived of liberty are filled out and updated promptly and accurately and are subject to periodic checks and, in the event of irregularities, the officials responsible are adequately sanctioned.**

State party's reply

The reply of the State party can be consulted in CED/C/KAZ/CO/1/Add.1.

Committee's evaluation

[B]: The Committee takes note of the information provided by the State party and welcomes the approval of the regulations on the registration of persons being held in correctional facilities by Order No. 107 of 13 February 2017. The Committee also welcomes the introduction of an electronic record-keeping system for persons visiting or brought before law enforcement bodies. However, the Committee notes that it has not received information on any action taken, since the adoption of its concluding observations (CED/C/KAZ/CO/1), to ensure that all registers and/or records include, as a minimum, the information required under article 17 (3) of the Convention. In addition, the Committee observes that no information has been provided by the State party regarding its recommendation to ensure that registers and/or records of persons deprived of liberty are subject to periodic checks and, in the event of irregularities, that the officials responsible are adequately sanctioned. Therefore, the Committee, recalling its recommendation, requests the State party, when submitting information in accordance with paragraph 37 of

Kazakhstan

its concluding observations, to provide:

(a) Additional information about existing registers, including whether they contain, as a minimum, the information required under article 17 (3) of the Convention;

(b) Information on any measures undertaken to ensure that registers and/or records of persons deprived of liberty are subject to periodic checks and, in the event of irregularities, that the officials responsible are adequately sanctioned.

Action to be taken

A letter should be sent to the State party communicating the Committee's evaluation.

Follow-up information on the implementation of all the recommendations to be submitted by: 18 March 2022

E. Tunisia

Tenth session (March 2016)

Tunisia

Concluding observations:	CED/C/TUN/CO/1, adopted 15 March 2016
Recommendations to be followed up:	Paragraphs 15, 23 and 30
Reply:	CED/C/TUN/CO/1/Add.1, due 18 March 2017; received 24 March 2017

Paragraph 15: The Committee recommends that the State party adopt the legislative measures necessary to ensure that, as soon as possible:

(a) **Enforced disappearance is incorporated into domestic law as an autonomous offence, in accordance with the definition contained in article 2 of the Convention, and that the offence carries appropriate penalties that take into account its extreme seriousness, while avoiding the imposition of the death penalty. It also invites the State party to establish the specific mitigating and aggravating circumstances provided for in article 7 (2) of the Convention;**

(b) **Enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention.**

State party's reply

The reply of the State party can be consulted in CED/C/TUN/CO/1/Add.1.

Committee's evaluation

[B]: The Committee takes note of the information provided by the State party and welcomes the establishment of a working group to draft a new bill on enforced disappearance, which will define enforced disappearance as an autonomous offence, in line with article 2 of the Convention; will provide for appropriate penalties that take into account its seriousness; and will establish specific mitigating and aggravating circumstances in line with article 7 (2) of the Convention. However, the Committee notes that this bill has not yet entered into force and that it has not received sufficient information on its content with regard to the wording of the definition of enforced disappearance, the penalties provided for this crime and the mitigating and aggravating circumstances established. The Committee would like to emphasize that criminalizing enforced disappearance as an autonomous offence can serve as an important safeguard against impunity and as a preventive measure to ensure the non-occurrence of this crime. Therefore, the lack of an autonomous offence for this crime may prevent the State party

from accomplishing its obligations to combat impunity for the crime, guarantee the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person and make the offence of enforced disappearance punishable by appropriate penalties in line with article 7 of the Convention. Finally, the Committee observes that no information has been provided with regard to its recommendation to ensure that enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention. Therefore, the Committee reiterates its recommendation and requests the State party, when submitting information in accordance with paragraph 40 of its concluding observations (CED/C/TUN/CO/1), to provide:

(a) Additional information on the content of the bill mentioned above, including penalties and aggravating and mitigating circumstances, as well as the progress achieved to criminalize enforced disappearance as an autonomous offence in line with the definition contained in article 2 of the Convention;

(b) Information on actions taken to ensure that the offence is punishable by appropriate penalties that take into account its extreme seriousness, while avoiding the imposition of the death penalty and to establish the specific mitigating and aggravating circumstances provided for in article 7 (2) of the Convention;

(c) Information on any measures taken to ensure that enforced disappearance as a crime against humanity is criminalized in accordance with the standards provided for under article 5 of the Convention.

Paragraph 23: The Committee recommends that the State party intensify its efforts to ensure that, without delay:

(a) **All past cases of enforced disappearance are investigated thoroughly and impartially and that investigations continue until the fate of the disappeared persons has been clarified;**

(b) **All those involved in the perpetration of an enforced disappearance, including military and civilian superiors, are prosecuted and, if found guilty, punished in accordance with the gravity of their acts;**

(c) **All persons who were forcibly disappeared and whose fate is not yet known are searched for and located and that, in the event of death, their remains are identified, respected and returned;**

(d) **All persons who have suffered harm as the direct result of an enforced disappearance receive adequate reparation that includes the means for their rehabilitation and takes account of gender issues, as well as prompt, fair and adequate compensation.**

State party's reply

The reply of the State party can be consulted in CED/C/TUN/CO/1/Add.1.

Committee's evaluation

[C]: The Committee, while welcoming the information provided by the State party, considers that it does not have sufficient information regarding the actions taken to implement its recommendation since the adoption of its concluding observations (CED/C/TUN/CO/1). In particular, the Committee observes that it has not received any information on any measures taken, before the entry into force of the bill on enforced disappearances, to ensure that all past cases of enforced disappearance are investigated thoroughly and impartially and that investigations continue until the fate of the disappeared persons has been clarified. The Committee also notes that it has not received any information on any actions taken to ensure that all those involved in the perpetration of an enforced disappearance, including military and civilian superiors, are prosecuted and, if found guilty, punished in accordance with the gravity of their acts. In addition, the

Committee observes that the State has not provided any information with regard to any actions taken to ensure that all persons who were forcibly disappeared, and whose fate is not yet known, are searched for and located and that, in the event of death, their remains are identified respected and returned. Finally, the Committee notes that the State party has not provided sufficient information on any action taken to ensure that all persons who have suffered harm as the direct result of an enforced disappearance, including those that may not be covered by Organizational Act. No. 53, dated 24 December 2013, receive adequate reparation that includes the means for their rehabilitation, as well as prompt, fair and adequate compensation. Therefore, the Committee, recalling its recommendation, requests the State party, when submitting information in accordance with paragraph 40 of its concluding observations, to provide:

(a) Information on any measures taken, before the entry into force of the bill on enforced disappearances, to ensure that all past cases of enforced disappearance are investigated thoroughly and impartially and that investigations continue until the fate of the disappeared persons has been clarified;

(b) Information on the results achieved with respect to the prosecution of all those involved in the perpetration of an enforced disappearance, including military and civilian superiors and, if found guilty, information on the penalties imposed;

(c) Information on concrete measures taken to search and locate all persons who were forcibly disappeared and whose fate is not yet known and, in the event of death, measures taken to identify, respect and return their remains to their families;

(d) Information on the results achieved regarding the adequate reparation and compensation of the rights of the victims of an enforced disappearance, including those that may not be covered by Organizational Act. No. 53, dated 24 December 2013, in accordance with article 24 of the Convention.

Paragraph 30: The Committee recommends that the State party adopt all the measures necessary to ensure that all persons deprived of liberty, irrespective of the offence of which they are accused, are afforded, de jure and de facto, from the outset of their deprivation of liberty, all the fundamental legal safeguards provided under article 17 of the Convention. In particular, the Committee recommends that the State party guarantee that:

(a) **All persons deprived of liberty have access to a lawyer from the outset of deprivation of liberty and can communicate without delay with their relatives or any person of their choosing and, in the case of foreigners, with their consular authorities;**

(b) **Any person with a legitimate interest can have prompt and easy access to at least the information listed in article 18 (1) of the Convention, including during the custody period;**

(c) **All deprivations of liberty, without exception, are entered in uniform registers and/or records, which include, as a minimum, the information required under article 17 (3) of the Convention;**

(d) **Registers and/or records of persons deprived of liberty are filled out and updated promptly and accurately and are subject to periodic checks and, in the event of irregularities, the officials responsible are adequately sanctioned.**

State party's reply

The reply of the State party can be consulted in CED/C/TUN/CO/1/Add.1.

Committee's evaluation

[B]: The Committee takes note of the information provided by the State party and welcomes the new amendment to the Criminal Procedure Code, which entered into force in June 2016. However, while taking note of the information provided in paragraph 15,

Tunisia

the Committee observes that it has not received any information with regard to the measures taken to provide any person with a legitimate interest with access to at least the information listed in article 18 (1) of the Convention, including during the custody period. In addition, the Committee is concerned about the restrictions foreseen in the new act, whereby access to a lawyer is restricted to working hours and meeting time with the person deprived of liberty is restricted to 30 minutes throughout the period of the detention. In that respect, the Committee notes that the State party has not provided sufficient information regarding any measures taken to ensure that persons deprived of liberty have access to a lawyer from the outset of deprivation of liberty. Furthermore, the Committee observes that the State party has not provided information on any measures taken to ensure that all persons deprived of liberty can communicate without delay with their relatives or any person of their choosing, including consular authorities in the case of foreigners. Finally, the Committee is concerned that the contents of the special register mentioned in paragraph 17 of the State party's reply to the Committee's concluding observations (CED/C/TUN/CO/1/Add.1) do not conform to the information required under article 17 (3) of the Convention. In this respect, the Committee observes that it has not received information on any other registers that may exist and their content, or on any measures taken to ensure that all registers and/or records of persons deprived of liberty are subject to periodic checks and, in the event of irregularities, that the officials responsible are adequately sanctioned. Therefore, the Committee, recalling its recommendation, requests the State party, when submitting information in accordance with paragraph 40 of its concluding observations (CED/C/TUN/CO/1), to provide the following information:

(a) Additional information about the informational register of detainees and arrested persons, including whether it contains all the information required under article 17 (3) of the Convention. In particular, the State party shall refer to the inclusion of the provisions of article 17 (3) (c) (d) (f) (g) and (h) of the Convention;

(b) Measures undertaken to ensure that registers and/or records of persons deprived of liberty are subject to periodic checks and, in the event of irregularities, that the officials responsible are adequately sanctioned;

(c) Information that allows the Committee to confirm that, in practice, all persons deprived of their liberty have access to an independent lawyer from the outset of the deprivation of liberty and can communicate with any persons of their choice, including consular authorities in the case of foreigners.

Action to be taken

A letter should be sent to the State party communicating the Committee's evaluation.

Follow-up information on the implementation of all the recommendations to be submitted by: 18 March 2022